



Sen. Jacqueline Y. Collins

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09400SB2670sam001

LRB094 17992 NHT 56498 a

1 AMENDMENT TO SENATE BILL 2670

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2670 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing Section  
5 10-20.12b as follows:

6 (105 ILCS 5/10-20.12b)

7 Sec. 10-20.12b. Residency; payment of tuition; hearing;  
8 criminal penalty.

9 (a) For purposes of this Section:

10 (1) The residence of a person who has legal custody of  
11 a pupil is deemed to be the residence of the pupil.

12 (2) "Legal custody" means one of the following:

13 (i) Custody exercised by a natural or adoptive  
14 parent with whom the pupil resides.

15 (ii) Custody granted by order of a court of  
16 competent jurisdiction to a person with whom the pupil  
17 resides for reasons other than to have access to the  
18 educational programs of the district.

19 (iii) Custody exercised under a statutory  
20 short-term guardianship, provided that within 60 days  
21 of the pupil's enrollment a court order is entered that  
22 establishes a permanent guardianship and grants  
23 custody to a person with whom the pupil resides for  
24 reasons other than to have access to the educational

1 programs of the district.

2 (iv) Custody exercised by an adult caretaker  
3 relative who is receiving aid under the Illinois Public  
4 Aid Code for the pupil who resides with that adult  
5 caretaker relative for purposes other than to have  
6 access to the educational programs of the district.

7 (v) Custody exercised by an adult who demonstrates  
8 that, in fact, he or she has assumed and exercises  
9 legal responsibility for the pupil. For the purposes of  
10 this item (v), "legal responsibility" is defined as  
11 providing and provides the pupil with a regular fixed  
12 night-time abode for purposes other than to have access  
13 to the educational programs of the district.

14 (a-5) If a pupil's change of residence is due to the  
15 military service obligation of a person who has legal custody  
16 of the pupil, then, upon the written request of the person  
17 having legal custody of the pupil, the residence of the pupil  
18 is deemed for all purposes relating to enrollment (including  
19 tuition, fees, and costs), for the duration of the custodian's  
20 military service obligation, to be the same as the residence of  
21 the pupil immediately before the change of residence caused by  
22 the military service obligation. A school district is not  
23 responsible for providing transportation to or from school for  
24 a pupil whose residence is determined under this subsection  
25 (a-5). School districts shall facilitate re-enrollment when  
26 necessary to comply with this subsection (a-5).

27 (a-10) A school district must require an adult claiming  
28 custody under item (v) of subdivision (2) of subsection (a) of  
29 this Section to complete and sign an Attestation of Enrollment  
30 and Residency, developed by the State Board of Education, prior  
31 to enrollment of the pupil. An adult who establishes custody  
32 under item (ii), (iii), (iv), or (v) of subdivision (2) of  
33 subsection (a) of this Section is authorized and agrees to act  
34 in the place of the parent of the pupil with respect to the

1 pupil's education decisions and to be the person the school  
2 contacts regarding truancy, discipline, and school-based  
3 medical care. Once custody is established under item (ii),  
4 (iii), (iv), or (v) of subdivision (2) of subsection (a) of  
5 this Section, a school district shall make a reasonable attempt  
6 to communicate with the parent or parents of the pupil, unless  
7 the school district has knowledge of an order of a court to not  
8 communicate with a parent or parents of the pupil.

9 (b) Except as otherwise provided under Section 10-22.5a,  
10 only resident pupils of a school district may attend the  
11 schools of the district without payment of the tuition required  
12 to be charged under Section 10-20.12a. However, children for  
13 whom the Guardianship Administrator of the Department of  
14 Children and Family Services has been appointed temporary  
15 custodian or guardian of the person of a child shall not be  
16 charged tuition as a nonresident pupil if the child was placed  
17 by the Department of Children and Family Services with a foster  
18 parent or placed in another type of child care facility and the  
19 foster parent or child care facility is located in a school  
20 district other than the child's former school district and it  
21 is determined by the Department of Children and Family Services  
22 to be in the child's best interest to maintain attendance at  
23 his or her former school district.

24 (c) The provisions of this subsection do not apply in  
25 school districts having a population of 500,000 or more. If a  
26 school board in a school district with a population of less  
27 than 500,000 determines that a pupil who is attending school in  
28 the district on a tuition free basis is a nonresident of the  
29 district for whom tuition is required to be charged under  
30 Section 10-20.12a, the board shall notify the person who  
31 enrolled the pupil of the amount of the tuition charged under  
32 Section 10-20.12a that is due to the district for the  
33 nonresident pupil's attendance in the district's schools. The  
34 notice shall be given by certified mail, return receipt

1 requested. Within 10 days after receipt of the notice, the  
2 person who enrolled the pupil may request a hearing to review  
3 the determination of the school board. The request shall be  
4 sent by certified mail, return receipt requested, to the  
5 district superintendent. Within 10 days after receipt of the  
6 request, the board shall notify, by certified mail, return  
7 receipt requested, the person requesting the hearing of the  
8 time and place of the hearing, which shall be held not less  
9 than 10 nor more than 20 days after the notice of hearing is  
10 given. An impartial hearing officer appointed by the regional  
11 superintendent of schools shall conduct the hearing. ~~The board~~  
12 ~~or a hearing officer designated by the board shall conduct the~~  
13 ~~hearing.~~ The board and the person who enrolled the pupil may be  
14 represented at the hearing by representatives of their choice.  
15 At the hearing, the person who enrolled the pupil shall have  
16 the burden of going forward with the evidence concerning the  
17 pupil's residency. ~~The If the hearing is conducted by a hearing~~  
18 ~~officer, the~~ hearing officer, within 5 days after the  
19 conclusion of the hearing, shall send a written report of his  
20 or her findings by certified mail, return receipt requested, to  
21 the school board and to the person who enrolled the pupil. The  
22 person who enrolled the pupil may, within 5 days after  
23 receiving the findings, file written objections to the findings  
24 with the school board by sending the objections by certified  
25 mail, return receipt requested, addressed to the district  
26 superintendent. ~~The Whether the hearing is conducted by the~~  
27 ~~school board or a hearing officer, the~~ school board shall,  
28 within 15 days after the conclusion of the hearing, decide  
29 whether or not the pupil is a resident of the district and the  
30 amount of any tuition required to be charged under Section  
31 10-20.12a as a result of the pupil's attendance in the schools  
32 of the district. The school board shall send a copy of its  
33 decision to the person who enrolled the pupil, ~~and the decision~~  
34 ~~of the school board shall be final.~~ After the school board has

1 made its decision, any party to the hearing may appeal the  
2 decision in writing by certified mail, return receipt  
3 requested, to the State Superintendent of Education. The State  
4 Superintendent of Education or his or her designee shall review  
5 the record and determine whether the proper procedures were  
6 followed and whether the conclusion at the district level was  
7 against the manifest weight of the evidence or contrary to law.  
8 The decision of the State Superintendent of Education is final  
9 and subject to judicial review under the Administrative Review  
10 Law. The State Board of Education may adopt and enforce any  
11 rules that are necessary to implement and administer this  
12 subsection (c).

13 (c-5) The provisions of this subsection apply only in  
14 school districts having a population of 500,000 or more. If the  
15 board of education of a school district with a population of  
16 500,000 or more determines that a pupil who is attending school  
17 in the district on a tuition free basis is a nonresident of the  
18 district for whom tuition is required to be charged under  
19 Section 10-20.12a, the board shall notify the person who  
20 enrolled the pupil of the amount of the tuition charged under  
21 Section 10-20.12a that is due to the district for the  
22 nonresident pupil's attendance in the district's schools. The  
23 notice shall be given by certified mail, return receipt  
24 requested. Within 10 days after receipt of the notice, the  
25 person who enrolled the pupil may request a hearing to review  
26 the determination of the school board. The request shall be  
27 sent by certified mail, return receipt requested, to the  
28 district superintendent. Within 30 days after receipt of the  
29 request, the board shall notify, by certified mail, return  
30 receipt requested, the person requesting the hearing of the  
31 time and place of the hearing, which shall be held not less  
32 than 10 nor more than 30 days after the notice of hearing is  
33 given. An impartial hearing officer appointed by the State  
34 Superintendent of Education shall conduct the hearing. ~~The~~

1 ~~board or a hearing officer designated by the board shall~~  
2 ~~conduct the hearing.~~ The board and the person who enrolled the  
3 pupil may each be represented at the hearing by a  
4 representative of their choice. At the hearing, the person who  
5 enrolled the pupil shall have the burden of going forward with  
6 the evidence concerning the pupil's residency. The ~~If the~~  
7 ~~hearing is conducted by a hearing officer, the hearing officer,~~  
8 within 20 days after the conclusion of the hearing, shall serve  
9 a written report of his or her findings by personal service or  
10 by certified mail, return receipt requested, to the school  
11 board and to the person who enrolled the pupil. The person who  
12 enrolled the pupil may, within 10 days after receiving the  
13 findings, file written objections to the findings with the  
14 board of education by sending the objections by certified mail,  
15 return receipt requested, addressed to the general  
16 superintendent of schools. ~~If the hearing is conducted by the~~  
17 ~~board of education, the board shall, within 45 days after the~~  
18 ~~conclusion of the hearing, decide whether or not the pupil is a~~  
19 ~~resident of the district and the amount of any tuition required~~  
20 ~~to be charged under Section 10-20.12a as a result of the~~  
21 ~~pupil's attendance in the schools of the district.~~ The ~~If the~~  
22 ~~hearing is conducted by a hearing officer, the board of~~  
23 education shall, within 45 days after the receipt of the  
24 hearing officer's findings, decide whether or not the pupil is  
25 a resident of the district and the amount of any tuition  
26 required to be charged under Section 10-20.12a as a result of  
27 the pupil's attendance in the schools of the district. The  
28 board of education shall send, by certified mail, return  
29 receipt requested, a copy of its decision to the person who  
30 enrolled the pupil, ~~and the decision of the board shall be~~  
31 ~~final.~~ After the board of education has made its decision, any  
32 party to the hearing may appeal the decision in writing by  
33 certified mail, return receipt requested, to the State  
34 Superintendent of Education. The State Superintendent of

1 Education or his or her designee shall review the record and  
2 determine whether the proper procedures were followed and  
3 whether the conclusion at the district level was against the  
4 manifest weight of the evidence or contrary to law. The  
5 decision of the State Superintendent of Education is final and  
6 subject to judicial review under the Administrative Review Law.  
7 The State Board of Education may adopt and enforce any rules  
8 that are necessary to implement and administer this subsection  
9 (c-5).

10 (d) If a hearing is requested under subsection (c) or (c-5)  
11 to review the determination of the school board or board of  
12 education that a nonresident pupil is attending the schools of  
13 the district without payment of the tuition required to be  
14 charged under Section 10-20.12a, the pupil may, at the request  
15 of a person who enrolled the pupil, continue attendance at the  
16 schools of the district pending a ~~final~~ decision of the board  
17 following the hearing and, if applicable, the final decision of  
18 the State Superintendent of Education. However, attendance of  
19 that pupil in the schools of the district as authorized by this  
20 subsection (d) shall not relieve any person who enrolled the  
21 pupil of the obligation to pay the tuition charged for that  
22 attendance under Section 10-20.12a if the ~~final~~ decision of the  
23 board or, if applicable, the final decision of the State  
24 Superintendent of Education is that the pupil is a nonresident  
25 of the district. If a pupil is determined to be a nonresident  
26 of the district for whom tuition is required to be charged  
27 pursuant to this Section, the board shall refuse to permit the  
28 pupil to continue attending the schools of the district unless  
29 the required tuition is paid for the pupil.

30 (e) Except for a pupil referred to in subsection (b) of  
31 Section 10-22.5a, a pupil referred to in Section 10-20.12a, or  
32 a pupil referred to in subsection (b) of this Section, a person  
33 who knowingly enrolls or attempts to enroll in the schools of a  
34 school district on a tuition free basis a pupil known by that

1 person to be a nonresident of the district shall be guilty of a  
2 Class C misdemeanor.

3 (f) A person who knowingly or wilfully presents to any  
4 school district any false information regarding the residency  
5 of a pupil for the purpose of enabling that pupil to attend any  
6 school in that district without the payment of a nonresident  
7 tuition charge shall be guilty of a Class C misdemeanor.

8 (g) The provisions of this Section are subject to the  
9 provisions of the Education for Homeless Children Act. Nothing  
10 in this Section shall be construed to apply to or require the  
11 payment of tuition by a parent or guardian of a "homeless  
12 child" (as that term is defined in Section 1-5 of the Education  
13 for Homeless Children Act) in connection with or as a result of  
14 the homeless child's continued education or enrollment in a  
15 school that is chosen in accordance with any of the options  
16 provided in Section 1-10 of that Act.

17 (Source: P.A. 94-309, eff. 7-25-05.)

18 Section 90. The State Mandates Act is amended by adding  
19 Section 8.30 as follows:

20 (30 ILCS 805/8.30 new)

21 Sec. 8.30. Exempt mandate. Notwithstanding Sections 6 and 8  
22 of this Act, no reimbursement by the State is required for the  
23 implementation of any mandate created by this amendatory Act of  
24 the 94th General Assembly.

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law."